

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

IN RE PHARMACEUTICAL INDUSTRY)	MDL NO. 1456
AVERAGE WHOLESALE PRICE)	
LITIGATION)	CIVIL ACTION: 01-CV-12257-PBS
)	
THIS DOCUMENT RELATES TO:)	JUDGE PATTI B. SARIS
ALL ACTIONS)	
)	

**DEFENDANTS BAXTER HEALTHCARE CORPORATION AND BAXTER
INTERNATIONAL INC.'S MEMORANDUM REGARDING TRACK TWO
DISCOVERY SCHEDULE**

Defendants Baxter Healthcare Corporation and Baxter International Inc. (collectively, "Baxter") are unable to join in the submission made jointly on behalf of the Track Two Defendants regarding the discovery schedule. Although Baxter has already produced a significant volume of documents and 14 years of sales transaction data to Plaintiffs, given the vast number of persons from whom potentially responsive documents have needed to be collected, and the location of those persons throughout the country, Baxter does not reasonably believe that it can comply with the deadlines proposed in the Track Two Defendants' schedule. For these reasons, Baxter and Plaintiffs previously conferred and agreed to a mutually acceptable schedule, which was submitted to this Court in the form of a proposed stipulation on November 22, 2005. *See Exhibit A.*

Baxter respectfully requests that the schedule set forth in the November 22, 2005 stipulation be adopted by the Court with respect to discovery of Baxter by the MDL Plaintiffs.

Dated: December 9, 2005

Respectfully submitted,

/s/ Peter E. Gelhaar

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PROOF OF SERVICE

I, Peter E. Gelhaar, certify that on December 9, 2005, I caused a true and correct copy of the foregoing DEFENDANTS BAXTER HEALTHCARE CORPORATION AND BAXTER INTERNATIONAL INC.'S MEMORANDUM REGARDING TRACK TWO DISCOVERY SCHEDULE to be served via Lexis Nexis File and Serve in accordance with Case Management Order No. 2.

/s/ Peter E. Gelhaar

Peter E. Gelhaar